

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LARRY PHILPOT

Plaintiff,

-against-

ACB ASSOCIATES, L.P., THE NEW YORK
OBSERVER L.P., THE NEW YORK OBSERVER, LLC,
and "COMPANY ABC" d/b/a OBSERVER .
MEDIA

Defendant

Civil Action No.: 1: 17 Civ. 4646 (DAB)

ROBERT GARSON, an attorney duly admitted to practice law before the State and Federal Courts of New York, hereby declares pursuant to 28 U.S.C. §1746 the following:

1. I am a member of the firm Garson, Ségal, Steinmetz, Fladgate LLP, attorney of record for defendants ACB Associates, L.P. ("ACB"), The New York Observer, L.P. ("Observer L.P."), The New York Observer, LLC ("NYO") and "Company ABC" d/b/a Observer Media ("Observer Media")(collectively the "Defendants) in this action. I am fully familiar with the facts and circumstances stated forming the basis of Defendants' motion to dismiss and respectfully submit this declaration in support.

2. Exhibit A attached hereto is a true and correct copy of the first amended complaint dated July 17, 2017 of Plaintiff together with its exhibits.

3. Exhibit B attached hereto is a true and correct copy the publicly accessible article published on OnStage Magazine on June 9, 2013 entitled "Johnny Cash US Postage Stamp Unveiling Photos" publishing the Photograph at issue in the Amended Complaint.

4. Exhibit C attached hereto is a true and correct copy of the "About Us" page of OnStage Magazine accessed at www.onstagemagazine.com

5. Exhibit D is a true and correct copy of the trademark registration on the Principal Register of the United States Patent and Trademark Office for Registration No. 3,254,996 for the service mark THE NEW YORK OBSERVER showing the owner of the mark to be The New York Observer, LLC.

Dated: New York, NY
August 28, 2017.



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